

FINDING OF NO SIGNIFICANT IMPACT
Designation of Critical Habitat for the Canada lynx (*Lynx canadensis*)

The U.S. Fish and Wildlife Service (Service) is designating critical habitat for the Canada lynx (*Lynx canadensis*) pursuant to section 4 of the Endangered Species Act of 1973, as amended (Act). In total, the designation encompasses approximately 4,768 square kilometers (1,841 square miles) in three separate units in the States of Minnesota, Montana, and Washington. The designated critical habitat is located entirely on federally owned lands managed by the National Park Service. The Final Rule excludes all areas proposed for designation in the proposed rule (70 FR 68294, 71 FR 8258) in the State of Maine and substantial portions of the areas proposed for designation in the proposed rule in the States of Minnesota, Montana, and Washington under the authority of section 4(b)(2) of the Act.

We have analyzed three alternatives to the agency action, including—No Action; Designation as Identified in the Final Rule; and Designation as Identified in the Proposed Rule. The Service has developed an Environmental Assessment for the designation of critical habitat for the Canada lynx which analyzes each of these alternatives. Additionally, the potential economic impacts of critical habitat designation were evaluated in the draft and final economic analyses.

Section 7 of the Act requires Federal agencies to ensure, through consultation with the Service, that actions they fund, authorize, or carry out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.”

Our Environmental Assessment recognizes the difficulty in differentiating between section 7 consultations that result from the listing of the species (i.e., jeopardy) and consultations that result from the presence of critical habitat (i.e., adverse modification). By quantifying the potential impacts associated with all future section 7 impacts in or near critical habitat, the analysis ensures that any critical habitat impacts that may occur co-extensively with the listing of the species are not overlooked. As a result, the analysis likely overstates the regulatory activity under section 7 attributable to designation of critical habitat.

Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not result in any regulatory requirement for these actions.

This designation has been coordinated with all interested and/or affected parties. The Service published Notice of Availability and provided written notice to interested individuals including Native American Tribes, private landowners, county commissioners, congressional and State

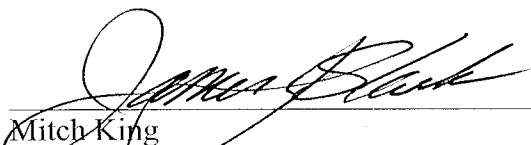
representatives, State and Federal agencies, and other potentially interested parties, of the draft Environmental Assessment and draft Economic Analysis on September 11, 2006 (71 FR 53355) and provided 30 days for public review and comment. All comments received were analyzed and, where appropriate, were incorporated into the final Environmental Assessment, final Economic Analysis, and/or the Final Rule.

As discussed in the September 11, 2006, notice announcing the availability of the draft Economic Analysis (71 FR 53355), the draft analysis estimated for the proposed action, potential future costs ranged from \$175 million to \$889 million in undiscounted dollars over the next 20 years. Discounted future costs were estimated to be from \$125 million to \$411 million over 20 years (\$8.38 million to \$27.6 million annually) using a 3 percent discount rate, or \$99.9 million to \$259 million over 20 years (\$9.43 million to \$24.4 million annually) using a 7 percent discount rate.

Based on our final analysis of the potential economic cost resulting from the Final Rule, the annualized potential costs to the National Park Service of section 7 associated with designation of critical habitat for the Canada lynx are estimated to be about \$18,150. Additionally, it should be noted that Council on Environmental Quality National Environmental Policy Act (NEPA) regulations (40 CFR 1508.14) indicate that "economic and social effects are not intended by themselves to require preparation of an environmental impact statement."

After taking into consideration public comment on the proposal, the draft Economic Analysis and the draft NEPA document, we evaluated the benefits of conservation programs, plans, and partnerships relative to the regulatory benefits of critical habitat pursuant to section 4(b)(2) of the Act. As a result, we are finalizing critical habitat designated for lynx in lands located within Voyageurs, Glacier, and North Cascades National Parks and have prepared a final Environmental Assessment available on the Service's website: <http://mountain-prairie.fws.gov/species/mammals/lynx/>.

Based on a review and evaluation of the information contained in the Environmental Assessment, it is my determination that the designation of critical habitat for the Canada lynx does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the NEPA of 1969 (as amended). As such, an Environmental Impact Statement is not required.



Mitch King
Regional Director, Region 6

11-1-06
Date